GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Nagalli John Jayakar, A.T.Agrahram, Guntur under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings, in File No.REV-CSEOVC(Ver)/48/2018-JA(C4)-KCO, dated27.08.2018 of the District Collector, Krishna in conforming the ST-Konda Kapu Community Certificate of Smt. Dhulipudi Shalini Devi @ Tumu Shalini Devi, Regional Director of Medical and Health Services, Zone-III, Guntur(Retd.) – Appeal Petition – Dismissed – Orders – Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 4 Dated: 11-02-2021
Read the following:-

1. Proceedings of the District Collector, Krishna, No.REV-CSEOVC(Ver)/ 48/2018-JA(C4)-KCO, dated 27.08.2018.
2. Representation/appeal petition filed by Sri Nagalli John Jayakar, dated 13.09.2018 & received through Mail on 21.09.2018.
3. Govt. Memo No.11021/106/CV2/21018, dated 23.10.2018.
4. From the District Collector, Krishna, Lr.Rev-CSECOVC(Ver)/48/2018-JA(C4) –KCO, dated 10.12.2018.
5. Memo No.11021/106/CV2/21018, dated:27.12.2018, 09.01.2019, 23.01.2019, 09.10.2019, 10.09.2020 & 17.11.2020.

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ORDER:

In the Proceedings 1st read above, the District Collector, Krishna has issued orders conforming the ST-Konda Kapu Community Certificate of Smt. Dhulipudi Shalini Devi @ Tumu Shalini Devi, RD(Retd.), Medical and Health Services, Guntur.

2. Sri Nagalli John Jayakar of Guntur has filed a complaint before the Government against the Proceedings of the District Collector, Krishna in conforming the ST-Konda Kapu Community Certificate of Smt. Dhulipudi Shalini Devi @ Tumu Shalini Devi, RD (Retd.), Medical and Health Services, Guntur. After examining the said Appeal Petition, Government while admitting the same, have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the letter 4th read above, the District Collector, Krishna has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri Nagalli John Jayakar, A.T.Agrahram, Guntur.

4. The said Appeal Petition has been posted for hearing on 05.01.2019, 23.01.2019, 09.02.2019, 19.10.2019 and finally on 28.11.2020 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memos 5th read above. The appellant and respondents have attended the hearing on 28.11.2020. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ the Para-wise remarks submitted by the District Collector, Krishna and proceedings of the District Collector, Krishna, dated 27.08.2018, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support his claim of ST-Konda Kapu Community is as follows:

1. The enquiry conducted by the Chairman, District Level Scrutiny Committee (DLSC) is one sided and not conducted duly following the guidelines meant for finalizing the genuineness of the bogus Community certificate of Dr. Tumu Shalini Devi @ Dhulipudi Shalini Devi.

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2. In the abstract of the written statement of Smt. Tumu Shalini Devi, she has stated that her Great Grand Father name is Tumu Venkaiah Naidu who has two sons named 1) Tumu Krishna Rao-Grand father of Tumu Shalini Devi 2) Tumu Abbaiah Naidu. Naidu cannot be converted into Scheduled Tribes. All the members of DLSC, Krishna District have not noticed the names of the Great Grand Father and Grand Father.

3. The Director, Tribal Cultural Research and Training Institute, Vijayawada clearly stated that the then Tahsildar, Vijayawada Urban issued Caste Certificate on 19.01.1983 without conducting proper enquiry on the documents submitted by Dr. D. Shalini Devi, that her forefathers belongs to 'Konda-Kapu' caste migrated from Kachavaram (Village) in Bhadrachalam Agency area of Khammam District. Smt. Tumu Shalini Devi could not establish any linkage of migration of her forefathers from Kachavaram to Vijayawada. No substantial evidence has been submitted to prove herself as Konda-Kapu.

4. She has obtained Community Certificate from Tahsildar, Vijayawada instead of RDO and Sub-Collector, Vijayawada. The certificate has been issued by the another competent authority who is not having Jurisdictional power over Smt. Shalini Devi's Village. A certificate in regard to community certificate issued by any person, officer or authority other than the competent authority shall be invalid as per G.O.Ms.No.58, Social Welfare (XII) Dept., dated:12.05.1997.

5. The Chairman, DLSC has not cross verified the submitted documents with that of Revenue Records. The chronological order of the date of issue of certificates submitted by Tumu Shalini Devi has been changed. The Chairman has not conducted thorough, fair and discrete enquiry into the records.

6. The Nativity Certificates and Certificate of Residence of Tumu Shalini Devi are not valid as they are not issued by the Competent Authorities. All the corroborative evidences which Smt. Tumu Shalini Devi has submitted to the Chairman, DLSC, Krishna District are Photo Copy Certificates, there is not even a single original copy of the Revenue Certificate was checked by the Committee.

II. The District Collector, Krishna has furnished the following remarks on the above grounds as follows:

1. The proceedings of the District Collector, Krishna issued in file No. REVCSECOVC(Ver)/48/2018-JA(C4)-KCO, Dated: 27-08-2018 confirming the Scheduled Tribe (Konda-Kapu) certificate is very much within the ambit of sub rule 5 and 6 of Rule 9 of Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of community, nativity and date of birth certificate Rules, 1997 communicated in G.O.Ms.No.58 (SW)(j) Department, Dt.12-05-1997 and the committee confirmed that Dr. Tumu @ Dhulipudi Shalini Devi belongs to Konda Kapu by caste which is recognized as Scheduled Tribe.

2. As per the written statement filed by Dr. Tumu @ Dhulipudi Shalini Devi, by the date of her birth her Grandparents and Great grand parents all expired, her father only used to tell that their ancestors followed the customs of Konda-Kapu, and her Great-grandfather migrated from Kachavaram Village, Bhadrachalam Agency, Khammam District. During the course of enquiry Dr.Tumu @ Dhulipudi Shalini Devi submitted all the necessary documents to the District Level Scrutiny Committee(DLSC).

3. Smt. Dhulipudi Shalini Devi obtained the Konda Kapu Certificate from the Tahsildar, Vijayawada (U) on 19.1.1983 and it was mentioned on the foot of the said certificate with regard to the competent authorities for issue of the said certificate. The Tahsildar is one of the authorities for issue of the

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said Caste Certificate. In exercise of his powers, the then Tahsildar had issued the Konda Kapu Certificate. Further, the G.O.Ms.No.58, Social Welfare (J2) Department, Dated 12-5-1997 came into force from 16.5.1997, but the Certificate was issued on 19.1.1983.

4. On the request made by the Deputy Superintendent of Police, SC & ST Cell-1, Guntur Urban in 2017, the then Tahsildar, Vijayawada has conducted enquiry and confirmed that the Caste of Smt. Tumu Shalini Devi belongs to Konda Kapu and the same was informed to the Deputy Superintendent of Police, SC & ST Cell-1, Guntur Urban vide his letter No. RC.D/35/2017, Dated 24.1.2017. The Deputy Superintendent of Police, SC & ST Cell-1, Guntur Urban has also conducted enquiry with regard to the caste status of Dr. D.Shalini Devi on the complaint filed by N. Ravi Kumar, Ankamma Nagar, Guntur and confirmed that Dr. Tumu Shalini Devi Belongs to Konda Kapu-ST by caste vide Ref.No.C.No.57/DSPSC ST-Cell-1/ Guntur Urban/ 2016, dated 28-01-20 17.

5. The Petitioner has not specifically mentioned his point. He clubbed the two different matters i.e. time of issue of certificate (19.1.1983) and time of procedure prescribed by the Government (Dated 16.5.1997). Hence, the Procedure prescribed by the Government vide the G.O.Ms.58 Social Welfare, (J2) Department, Dated 12-5-1997 has been followed.

6. The DLSC has gone through the records, thoroughly verified the documentary evidence produced by Dr.Tumu @ Dhulipudi Shalini Devi, and conducted enquiry as per the Rules and finally confirmed that Dr.Tumu @ Dhulipudi ShaliniDevi belongs to Konda Kapu caste which is recognised as Scheduled Tribe.

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. During the course of hearing of the case, heard arguments of both sides and they also filed written arguments and several documents and contended as per the written arguments and draw the attention of several judicial orders and the observations therein.

2. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the contention of the appellant is that the lower authority is not justified in holding that Smt. D. Shalini Devi belongs to Konda Kapu as she failed to produce admissible documents with regard to claiming of her community.

3. It is noticed from the record that documentary evidence/records produced by the individual who claiming the social status as ST shows that the individual born in the tribal community and her claim of tribe is a matter of birth but not of choice or law.

4. It is also noticed that the DLSC after detailed enquiry and after perusing the records perfectly reported holding that Smt. D. Shalini Devi belongs to Konda Kapu ST Community and the same is rightly justified by the learned Collector, Krishna District by upholding the report of the DLSC holding that Smt. D. Shalini Devi belongs to Konda Kapu ST Community.

5. That as per the Act that the burden of proving a person claims particular community shall be on her shoulder and it is her responsibility to produce necessary evidence and documents to prove her claim and in the present case that the said individual discharged her burden by producing relevant admissible documents before the competent authority. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity in the findings of the DLSC and learned Collector, Krishna District.

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6. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly the proceedings of the District Collector, Krishna District is hereby upheld and the appeal petition is hereby dismissed.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby dismiss the appeal petition filed by Sri Nagalli John Jayakar, Guntur District, duly upholding the Proceedings, in File No.REV-CSEOVC(Ver)/48/2018-JA(C4)-KCO, dated 27.08.2018. of the District Collector, Krishna in conforming the ST-Konda Kapu Community Certificate of Smt. Dhulipudi Shalini Devi @ Tumu Shalini Devi, RD(Retd.), Medical and Health Services, Guntur.

6. The District Collector, Krishna is directed to take necessary consequential action in the matter, accordingly.

7. The records (Ref: REV-CSEOVC(Ver)/48/2018-JA(C4)-KCO) containing total pages:647) received from the District Collector, Krishna through the reference 4th read above, are returned herewith in original to the District Collector, Krishna and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The District Collector, Krishna at Machalipatnam.(we)
(with original records) (BY RPAD)

Sri Nagella John Jayakar,
D.No.93-10-446, A.T.Agraharam, Guntur- 522 004.

Smt. Tumu Shalini Devi @ Dhulipudi Shalini Devi
R/o. D.No.27-17-43, Governorpet, Vijayawada.

Copy to:
The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER